

MONTHLY BENEFIT News and Developments

Employee Benefits

Upcoming Key Dates

10/15/14 – PBGC premium filing due date for large single-employer and multiemployer calendar-year 2013 defined benefit pension plans.

10/31/14 (unless a later date applies) – Compliance with new compensation committee independence standards for NYSE and NASDAQ listed companies.

11/5/14 – Deadline for large health plans that are covered entities under the HIPAA rules to obtain a Health Plan Identifier Number.

11/15/14 – First reporting of annual enrollment of covered lives by self-insured or partially insured group health plans, under the ACA's transitional reinsurance program.

11/15/14 – Start date of delayed 2015 open enrollment period for individual and SHOP insurance purchases through an Exchange.

12/31/14 – Expiration of the PPA's multiemployer defined benefit pension plan special funding rules for calendar-year plans, unless Congress acts.

12/31/14 – HIPAA certificates of creditable healthcare coverage no longer required.

12/31/14 – Deadline to adopt required amendment under the ACA limiting health FSA contributions to \$2,500.

1/1/15 (for employers with 100 or more employees) – Delayed effective date of employer requirement to offer affordable/minimum value health coverage to full-time employees (and dependents) or pay a penalty, requiring compliance with ACA's reporting rules for 2016 information filings.

1/1/15 (unless required earlier) – Deadline for certain eligible governmental retirement plans to adopt "exclusive benefit" amendment.

*This **Monthly Benefit News and Developments** covers developments through Sept. 30; with Congress in recess until Nov. 12, the next MBND will be the December 2014 issue.*

Legislative Activity on the Benefits Front

The House and Senate approved H.J.Res.124, which continues federal government funding into the 2015 fiscal year that begins Oct. 1, and adjourned until after the midterm elections. The House cleared the continuing resolution on Sept. 17 by a vote of 319-108, while the Senate did so on Sept. 18 by a vote of 78-22. The resolution, which became necessary when Congress was unable to pass 12 individual bills for the various federal departments as the September 30 year-end deadline approached, provides 10 weeks (until Dec. 11, 2014) of funding. A congressional "lame-duck" session following the midterm elections in November will have to act to extend or modify agency funding levels for the remainder of the federal fiscal year.

The President signed the measure (P.L.113-164) on Sept. 19.

Both the House and the Senate are scheduled to return Nov. 12; several pro forma sessions will be held until then but no legislative business is expected to be conducted.

With Congress now in recess, bills with benefits-related provisions that cleared one chamber must await final action in the lame-duck session, including:

- H.R.4, the Republican leadership's "jobs creation" bill that would: repeal the Affordable Care Act's (ACA) 30-hour threshold for classification as a full-time employee, replacing that threshold with 40 hours per week; and permit employees with healthcare coverage under TRICARE or the Veterans Administration to be exempt from the ACA's employer mandate. The bill cleared the House but the Senate is not expected to approve it.
- H.R.3522, which would allow health insurers until 2018 to continue offering group plans that were in effect in 2013 and do not meet the ACA requirements.
- S.2511, which would amend ERISA section 4062(e)'s definition of "substantial cessation of operations" for pension plan purposes. The Senate voted to approve the bill but the House did not act on it before recessing on Sept. 18.

The post-election session also is expected to consider a tax "extenders" bill (such as a pending Senate amendment to H.R.3474) that could include provisions such as employee transit benefits, employment-based wage and tax credits, and emergency loans from retirement plans in declared disaster areas. These employment-based provisions in the past have moved as part of extenders legislation, but there are some in Congress who would prefer to address these issues as part of a package on comprehensive tax reform, action that is not likely to occur until sometime in the 114th Congress.

Separately, the President on Aug. 8 signed the "Highway and Transportation Funding Act" (H.R.5021, P.L.113-159), which modifies a 2012 statute's ("MAP-21") interest-rate corridors used to determine minimum pension funding liabilities (see **Benefits Alert 14-7**).

Tax Policy & Retirement Plans

The Joint Committee on Taxation issued:

- *Present Law and Background Relating to Tax-Favored Retirement Savings* (JCX-98-14), summarizing tax law rules applicable to retirement savings arrangements and discussing related economic issues.
- *Present Law and Background Relating to Qualified Defined Benefit Plans* (JCX-99-14), discussing both single-employer and multiemployer pension plans.

www.jct.gov

Federal Reserve on Retirement Income

The Federal Reserve released the September 2014 Bulletin, *Changes in U.S. Family Finances from 2010 to 2013: Evidence from the Survey of Consumer Finances*, which found that those families in the bottom half of the usual income distribution saw overall declines in retirement plan participation between 2007 and 2010, and then again between 2010 and 2013. The report attributed the declines in coverage in both individual retirement arrangements and defined contribution retirement plans, as there was little change in the fraction of families with a defined benefit plan.

www.federalreserve.gov

Public Pension Plans

The U.S. Census Bureau published *2013 Survey of Public Pensions: State-Administered Defined Benefit Data*, an annual survey presenting information on revenues, expenditures, financial assets, membership, and liabilities. Data are shown by state, for the 227 state-administered pension systems. According to the report, total cash and investment holdings of these systems totaled \$2.7 trillion in 2013, up 7.8% over the \$2.5 trillion in 2012.

www.census.gov

GAO on W-2 E-Filing

In *Identity Theft: Additional Actions Could Help IRS Combat the Large, Evolving Threat of Refund Fraud* (GAO-14-663), the Government Accountability Office recommends that Congress consider giving the Treasury Department authority to lower the annual threshold for e-filing Forms W-2, and that IRS assess the costs and benefits of shifting W-2 filing deadlines.

www.gao.gov

Regulatory Roundup

Jointly from Treasury, Labor, and Health and Human Services:

- A *final rule* on group health plans' "excepted benefits" (e.g., limited-scope vision and dental benefits, employee assistance programs) and their exclusion from HIPAA's portability provisions and the ACA's insurance market reforms.
- *Interim final* and *proposed rules*, along with a new *alternative notice*, on applying the ACA's contraceptive coverage requirement to closely held and nonprofit entities with religious objections to contraceptives.

From the Departments of Treasury/IRS:

- *Final rule* on "hybrid" retirement plans and *proposed rule* on transitional amendments for such plans to satisfy the "market rate of return" rules.
- *Final rule* on the requirements for filing certain employee retirement benefit plan statements, returns, and reports on magnetic media.
- *Proposed rule* and *Notice 2014-54*, addressing the allocation of a single retirement plan distribution to multiple accounts.
- *Notice 2014-56*, announcing the Patient-Centered Outcome Research Institute fee of \$2.08 for group health plan and policy years ending on or after Oct. 1, 2014, and before Oct. 1, 2015.
- *Notice 2014-55*, providing guidance on permitted mid-year cafeteria plan healthcare election changes.
- *Notice 2014-53*, providing guidance on the Highway and Transportation Funding Act's (HATFA) changes to the funding stabilization rules for single-employer pension plans.
- *Notice 2014-49*, proposing changes to the "look-back" measurement period for determining whether an employee is full time under the ACA.
- ACA-related draft *Instructions* for filing ACA-required Form 8962 (Premium Tax Credit/Advanced Premium Tax Credit) and Form 8965 (Exemptions), as well as *Instructions* for and *Q&A's* and a *Request for Information* on Forms 1095-A, 1095-B, 1095-C, 1094-B, 1094-C.
- Revised *Form 8717, User Fee for Employee Plan Determination Letter Request*, reflecting increases of some fees for 2014, and *Form 8717-A, User Fee for Employee Plan Opinion or Advisory Letter Request*.
- *Reporting and Disclosure Guide for Employee Benefit Plans*, a quick reference tool.

From the Department of Labor:

- A *final rule* reducing some reporting by federal contractors that hire or employ veterans.
- A *proposed rule* to prohibit federal contractors from maintaining pay secrecy policies.
- A *proposed rule* and related notices to require electronic submission of "top hat" plan statements.
- *Field Assistance Bulletin 2014-01*, providing guidance to ERISA plan fiduciaries with missing/unresponsive participants when terminating defined contribution plans.

From the Pension Benefit Guaranty Corporation:

- *Technical Update 14-1*, providing guidance on HATFA's effect on PBGC premiums.

From the Department of Health and Human Services:

- *Guidance* clarifying that same-sex, legally married couples are afforded the same privacy protections under HIPAA as other married couples, even if they live in jurisdictions that do not recognize the marriages.
- *Frequently Asked Questions* on obtaining a health plan identifier and a related "quick reference guide."

Milliman Monthly Benefit News and Developments contains general information that is not intended to constitute the rendering of legal, tax, investment, or accounting advice. Application to specific circumstances should rely on further professional guidance.